

# **NOTICE:**

**“BEST AVAILABLE COPY”**

**PORTIONS OF THE FOLLOWING  
DOCUMENT ARE ILLEGIBLE**

The Administrative Record Staff



## Department of Energy

ALBUQUERQUE OPERATIONS  
ROCKY FLATS AREA OFFICE  
P.O. BOX 928  
GOLDEN, COLORADO 80402-0928

August 22, 1989

Mr. Frederick R. Dowsett  
Hazardous Materials & Waste Management  
Division  
Colorado Department of Health  
4210 East 11th Avenue  
Denver, Colorado 80220

Dear Mr. Dowsett:

Our understanding is that you and members of our staffs, namely Messrs. William Risk and Mark Van Der Puy of the United States Department of Energy ("DOE") and Allen Schubert and Chris Casias of Rockwell International Corporation ("Rockwell") met yesterday afternoon to discuss water recycling practices and issues at the Rocky Flats Plant. As a result of the meeting, you agreed to confirm in writing the applicability of the "commercial product" exclusion contained in 6 C.C.R. 1007-3, Section 261.2(e)(ii) to the reused effluent water that flows from Building 374 at the Rocky Flats Plant. This is not a new issue since you and other representatives of the Colorado Department of Health ("CDH") have previously acknowledged informally the applicability of this exclusion to the reused effluent water that flowed from and presently flows from Building 374. Nevertheless, as you know, the Plant will not restart the Building 374 evaporator (except as necessary to support safe shut-down of operations) until after we have your confirmation.

More specifically, as you know from past submittals and prior discussions, Building 374 at the Plant is presently the subject of a two-part permit application submitted to CDH for treatment of hazardous waste. The Building 374 treatment involves both evaporation and precipitation. Water that is separated from solids is used in the steam plant (Building 443) and in the cooling tower (Building 373). Once used, portions of this water flow to the sewage treatment plant (Buildings 995/988). Also, as discussed yesterday afternoon at the meeting, further recirculation and use of the 374 water will take

Mr. Frederick R. Dowsett  
Colorado Department of Health  
Page 2

place in a number of other cooling towers (Buildings 444, 447, 460, 707, 776, 779, 881 and 883). Obviously, one of the purposes for yesterday's meeting was to advise you of this additional recirculation and use of the Building 374 water.

In the past, as well as the present time, the 374 water has been excluded from regulation as a solid and hazardous waste, even assuming it retains its identity as a hazardous waste after treatment in Building 374, for purposes of downstream recirculation and use of the water provided it has essentially the same general characteristics of the substituted commercially available water. These general characteristics include the ability to meet maximum contaminant levels (MCLs) as identified in 40 C.F.R. 141 Subpart B with exception of turbidity and microbiological contamination. For effluent constituents for which no MCL has been established, the lack of unusually high contaminant levels in comparison with historical data will suffice. You and others at the Colorado Department of Health previously acknowledged informally in meetings that this Building 374 water was excluded from regulation under federal and state requirements as a solid and hazardous waste because it was "used or reused as effective substitutes for Commercial products." 40 C.F.R. 261.2(e)(ii) and 6 C.C.R. 1007-3, Section 261.2(e)(ii). That is, since the water is being used or reused as an effective substitute for commercially available water that could or otherwise would be purchased from the Denver Water Board, this water is not identified as solid and hazardous waste pursuant to federal and state regulation.

On the basis of federal and state regulations, as well as informal discussions with CDH, DOE and Rockwell believed this to be the case. Nevertheless, under the present circumstances concerning operation of the Rocky Flats Plant we are requesting your confirmation of the applicability of the commercial product exclusion. Please confirm by signing below the applicability of the exclusion to the past and present Building 374 water.

Mr. Frederick R. Dowsett  
Colorado Department of Health  
Page 3

Consistent with the discussion at yesterday's meeting, the Rocky Flats Plant will commit to provide you with any and all data and lab analyses concerning sampling conducted since 1987. Additionally, the Plant will establish a monthly monitoring program in order to monitor the existing flow of the Building 374 product water. Results of analyses of such monitoring, to include VOCs and metals for which MCLs have been established, will be retained at the Plant and made available to you upon request.

Please return the signed original of this letter as well as one signed copy to our attention. We appreciate your willingness to meet with us and resolve this very important matter on such short notice.

Sincerely,

By: Edward S. Goldberg  
Edward S. Goldberg  
Acting Area Manager  
Rocky Flats Area Office  
U.S. Department of Energy

By: Dominick J. Sanchini  
Dominick J. Sanchini  
President  
Rockwell International  
Corporation  
Rocky Flats Plant

I concur:

Frederick R. Dowsett  
Frederick R. Dowsett  
Unit Leader  
Monitoring & Enforcement  
Hazardous Materials & Waste  
Management Division  
Colorado Department of Health